

**Miami-Dade County Department of Regulatory and Economic Resources
Staff Report to the Board of County Commissioners**

PH: Z10-016 (13-12-CZ10-1)

May 22, 2014

Item No. A

Recommendation Summary	
Commission District	10
Applicant	Tadpole Investments, Inc.
Summary of Requests	The applicant is seeking a Use Variance to allow a pawnbroker use for secondhand jewelry only in a more restrictive zoning district.
Location	2275 SW 87 Avenue, Miami-Dade County, Florida.
Property Size	18.95 acres
Existing Zoning	BU-2; Special Business District
Existing Land Use	Shopping Center
2015-2025 CDMP Land Use Designation	Business and Office (see attached Zoning Recommendation Addendum)
Comprehensive Plan Consistency	Consistent with interpretative text, goals, objectives and policies of the CDMP
Applicable Zoning Code Section(s)	Section 33-311(A)(4)(a), Use Variance from other than Airport Regulations
Recommendation	Denial without prejudice.

This item was deferred from the April 24, 2014 meeting of the Board of County Commissioners (BCC) as requested by the applicant.

On December 11, 2013, the Community Zoning Appeals Board (CZAB) #10, approved the application for a use variance to permit a pawn shop use in the BU-2 zone as would be permitted in the BU-3 zone with conditions, contrary to staff's recommendation.

On December 16, 2013, the appellant, the Department of Regulatory and Economic Resources appealed the CZAB-10 decision to the Board of County Commissioners (BCC).

For the reasons outlined below in the CDMP and Zoning analysis of the requests, staff opines that the BCC should reverse the CZAB 10 decision, thus denying the use variance as recommended by the Department.

REQUEST:

USE VARIANCE to permit a pawn broker use in the BU-2 zone as would be permitted in the BU-3 zone, only upon approval after public hearing.

Plans are on file and may be examined in the Department of Regulatory and Economic Resources, entitled, "Westchester Shopping Center" as prepared by Zamora & Associates, Inc., dated stamped received 07/26/13, consisting of 2 sheets and a plan entitled "Marquise Jewelers - Westchester Shopping Center, as prepared by F. Galarza, dated stamped received 02/17/10, consisting of 1 sheet for a total of 3 sheets. Plans may be modified at public hearing.

PROJECT DESCRIPTION AND PROJECT HISTORY:

The site has been the subject of several zoning actions from 1961 to 1999, for a special permit for shopping center promotional installation, special exception to permit the expansion of an

existing shopping center, modifications to prior site plans, and variances from the zoning regulations. The applicant seeks a pawn broker use for the pawning of jewelry only in the BU-2 zone, as would be permitted in the BU-3 zone only after public hearing. The site plan submitted by the applicant depicts an existing 1,249.24 sq. ft. jewelry store within a 229,178 sq. ft. shopping center.

NEIGHBORHOOD CHARACTERISTICS		
	Zoning and Existing Use	Land Use Designation
Subject Property	BU-2; shopping center	Business and Office
North	RU-1; single-family residences	Low Density Residential
South	BU-2; shopping center, office building	Business and Office
East	BU-2; medical center RU-1; single-family residences	Business and Office Low Density Residential
West	BU-2; service station and shopping center RU-1; single-family residence	Business and Office Low Density Residential

NEIGHBORHOOD COMPATIBILITY:

The subject property is located within a shopping center located at 2275 SW 87 Avenue. The area surrounding the subject property is characterized by residential and commercial uses.

SUMMARY OF THE IMPACTS:

The approval of this application will provide an additional service for the surrounding community. However, approval of the request to allow a pawnbroker use which is typically located in a zoning district that allows more intensive commercial uses only upon approval after public hearing, could have a negative impact on the abutting residential properties. Furthermore, approval of the same could result in an increase in the intensity and types of uses that would be allowed in this area.

COMPREHENSIVE DEVELOPMENT MASTER PLAN ANALYSIS:

The Comprehensive Development Master Plan (CDMP) Land Use Plan (LUP) map designates the subject property for **Business and Office** use. *This category accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, call centers, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes (also allowed in the institutional category), entertainment and cultural facilities, amusements and commercial recreation establishments such as private commercial marinas.* As such, the existing jewelry store use and requested pawnbroker use are **consistent** with the CDMP Land Use Element interpretative text for the Business and Office designation.

The CDMP Land Use Element **Objective LU-4** states that *Miami-Dade County shall continue to reduce the number of land uses, which are inconsistent with the uses designated on the LUP map and interpretive text, or with the character of the surrounding community.* The **Land Use Element Policy LU-4A** of said interpretive text provides that *when evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.* Staff notes that the existing jewelry store is located within a shopping center that consists of various commercial

uses such as a cash advance store, dry cleaners, supermarket, bank, restaurants, and a gasoline station, among other uses. Staff notes that the jewelry store is a compatible retail use within a retail shopping center.

In staff's opinion, the requested pawnbroker use for jewelry only is an accessory use to the existing jewelry store and therefore, would be **consistent** with the Business and Office designation on the CDMP Land Use Plan map and **consistent** with **Objective LU-4** based on the criteria outlined in **Land Use Element Policy LU-4A**.

ZONING ANALYSIS:

The applicant seeks approval of a use variance, under Section 33-311(A)(4)(a) to permit a pawnbroker use in the BU-2, Special Business District. The pawnbroker use is not permitted in the BU-2 district and is permitted in the BU-3, Liberal Business District only upon approval after public hearing. The letter of intent indicates that the applicant intends to limit the pawnbroker use solely for jewelry and will not permit the pawning of other merchandise.

The existing jewelry store is located within a shopping center that is within the BU-2 zoning district, surrounded by commercially and residentially zoned properties and provides the residential properties with access to neighborhood services. However, the proposed pawnbroker use is only permitted in the BU-3 zoning district upon approval after public hearing. Staff notes that the applicant is requesting this use variance in order to establish a pawnbroker, which is not permitted in the existing BU-2 zoning district. Although the BU-3 district provides for a host of uses that are significantly more intense than those allowed in the BU-2 district, such as gun shops; secondhand stores for the disposal of furniture, fixtures and tools; locksmith shops, sharpening and grinding shops; garage and mechanical services; commercial chicken hatcheries; and pawnbrokers; the applicant has indicated that the pawn broker use would be limited to the pawning of secondhand jewelry only in conjunction with the existing jewelry store.

When the subject request, to permit a pawnbroker use in the BU-2 zone, as would be permitted in the BU-3 zone only upon approval after public hearing, is analyzed under Section 33-311(A)(4)(a), Use Variance Standards, staff opines that the request is not consistent with the general purpose and intent of the zoning regulations. Section 33-311(A)(4)(a) provides that a **use variance** permits a use of land other than that which is prescribed by the zoning regulations. The standard stipulates that *the Board shall hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; and further provided that the use variance will be in harmony with the general purpose and intent of the regulations. To prove an unnecessary hardship the applicant must demonstrate that without the requested use variance, the applicant, under the existing zoning, has lost all reasonable use of the property.*

Based on the information provided by the applicant, staff opines that the applicant has not demonstrated any special conditions related to the subject site where the literal enforcement of applicable zoning district provisions would result in an unnecessary hardship. As previously discussed, the subject property is currently in use and operating as a jewelry store; as such, provides the applicant with economic use and benefit. Furthermore, Section 33-253 of the Code lists ten (10) permitted uses in addition to the 84 uses permitted in BU-1 (Neighborhood Business) district and BU-1A (Limited Business) district as permitted uses in the BU-2 zoning district, which allow for the reasonable use and benefit of the subject property. Staff is of the

opinion that the approval of the use variance request will not be in harmony with the general purpose and intent of the regulation, and that the applicant has not demonstrated a loss of all reasonable use of the property under the existing zoning. **As such, staff recommends denial without prejudice of the request for the proposed pawnbroker use under the Use Variance Section 33-311(A)(4)(a).**

CIRCULATION AND PARKING:

The subject property has ingress and egress points along SW 24 Street (Coral Way) and SW 87 Avenue.

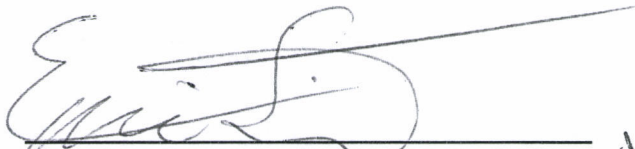
ENVIRONMENTAL REVIEW: Not applicable.

OTHER: Not applicable.

RECOMMENDATION: Denial without prejudice.

CONDITIONS FOR APPROVAL: None.

ES:MW:NN:AN:EJ


Eric Silva, AICP, Development Coordinator *NDN*
Development Services Division
Miami-Dade County
Department of Regulatory and Economic Resources

ZONING RECOMMENDATION ADDENDUM

Tadpole Investments, Inc.
Z10-016

NEIGHBORHOOD SERVICES PROVIDER COMMENTS*	
Regulatory and Economic Resources (Environmental Division)	No objection
Public Works and Waste Management	No objection
Parks, Recreation and Open Spaces	No objection
Fire Rescue	No objection
Police	No comments
Schools	No objection

*Subject to conditions in their memorandum.

COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) OBJECTIVES, POLICIES AND INTERPRETATIVE TEXT

Business and Office (Pg. I-41)	<i>This category accommodates the full range of sales and service activities. Included are retail, wholesale, personal and professional services, call centers, commercial and professional offices, hotels, motels, hospitals, medical buildings, nursing homes (also allowed in the institutional category), entertainment and cultural facilities, amusements and commercial recreation establishments such as private commercial marinas.</i>
Land Use Objective 4 (Pg. I-11)	<i>Miami-Dade County shall, shall continue to reduce the number of land uses, which are inconsistent with the uses designated on the LUP map and interpretive text, or with the character of the surrounding community.</i>
Policy LU-4A (Page I-11)	<i>When evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.</i>

PERTINENT ZONING REQUIREMENTS/STANDARDS

Section 33-311(A)(4)(a) Use Variances From Other Than Airport Regulations.	<i>The Board shall hear and grant applications for use variances from the terms of the zoning regulations as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions thereof will result in unnecessary hardship, and so the spirit of the regulations shall be observed and substantial justice done; provided, that the use variance will be in harmony with the general purpose and intent of the regulation, and that the same is the minimum use variance that will permit the reasonable use of the premises. A "use variance" is a variance which permits a use of land other than which is prescribed by the zoning regulations and shall include a change in permitted density.</i>
Section 33-311(A)(3) Special Exception, Unusual and New Uses.	<i>Special exceptions (for all applications other than public charter schools), unusual and new uses. Hear application for and grant or deny special exceptions, except applications for public charter schools; that is, those exceptions permitted by the regulations only upon approval after public hearing, new uses and unusual uses which by the regulations are only permitted upon approval after public hearing; provided the applied for exception or use, including exception for site or plot plan approval, in the opinion of the Community Zoning Appeals Board, would not have an unfavorable effect on the economy of Miami-Dade County, Florida, would not generate or result in excessive noise or traffic, cause undue or excessive burden on public facilities, including water, sewer, solid waste disposal, recreation, transportation, streets, roads, highways or other such facilities which have been constructed or which are planned and budgeted for construction, are accessible by private or public roads, streets or highways, tend to create a fire or other equally or greater dangerous hazards, or provoke excessive overcrowding or concentration of people or population, when considering the necessity for and reasonableness of such applied for exception or use in relation to the present and future development of the area concerned and the compatibility of the applied for exception or use with such area and its development.</i>

**Miami-Dade County Department of Regulatory and Economic Resources
Staff Report to Community Council No. 10**

PH: Z10-016 (13-12-CZ10-1)

December 11, 2013

Item No. 1

Recommendation Summary	
Commission District	10
Applicant	Tadpole Investments, Inc.
Summary of Requests	The applicant is seeking a Use Variance to allow a pawnbroker use for secondhand jewelry only in a more restrictive zoning district.
Location	2275 SW 87 Avenue, Miami-Dade County, Florida.
Property Size	18.95 acres
Existing Zoning	BU-2; Special Business District
Existing Land Use	Shopping Center
2015-2025 CDMP Land Use Designation	Business and Office (see attached Zoning Recommendation Addendum)
Comprehensive Plan Consistency	Consistent with interpretative text, goals, objectives and policies of the CDMP
Applicable Zoning Code Section(s)	Section 33-311(A)(4)(a), Use Variance from other than Airport Regulations
Recommendation	Denial without prejudice.

REQUEST:

USE VARIANCE to permit a pawn broker use in the BU-2 zone as would be permitted in the BU-3 zone, only upon approval after public hearing.

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The CDMP Land Use Element **Objective LU-4** states that *Miami-Dade County shall, by the year 2015, reduce the number of land uses, which are inconsistent with the uses designated on the LUP map and interpretive text, or with the character of the surrounding community.* The **Land Use Element Policy LU-4A** of said interpretive text provides that *when evaluating compatibility among proximate land uses, the County shall consider such factors as noise, lighting, shadows, glare, vibration, odor, runoff, access, traffic, parking, height, bulk, scale of architectural elements, landscaping, hours of operation, buffering, and safety, as applicable.* Staff notes that the existing jewelry store is located within a shopping center that consists of various commercial uses such as a cash advance store, dry cleaners, supermarket, bank, restaurants, and a gasoline station, among other uses. Staff notes that the jewelry store is a compatible retail use within a retail shopping center.

In staff's opinion, the requested pawnbroker use for jewelry only is an accessory use to the existing jewelry store and therefore, would be **consistent** with the Business and Office designation on the CDMP Land Use Plan map and **consistent** with **Objective LU-4** based on the criteria outlined in **Land Use Element Policy LU-4A**.

ZONING ANALYSIS:

The applicant seeks approval of a use variance, under Section 33-311(A)(4)(a) to permit a pawnbroker use in the BU-2 (Special Business) zoning district as would be permitted in the BU-3 (Liberal; Business) district only upon approval after public hearing. The letter of intent indicates that the applicant intends to limit the pawnbroker use solely for jewelry and will not permit the pawning of other merchandise.

The existing jewelry store is located within a shopping center that is within the BU-2 zoning district, surrounded by commercially and residentially zoned properties and provides the residential properties with access to neighborhood services. However, the proposed pawnbroker use is only permitted in the BU-3 zoning district upon approval after public hearing. Staff notes that the applicant is requesting this use variance in order to establish a pawnbroker, which is not permitted in the existing BU-2 zoning district. Although the BU-3 district provides for a host of uses that are significantly more intense than those allowed in the BU-2 district, such as gun shops; secondhand stores for the disposal of furniture, fixtures and tools; locksmith shops, sharpening and grinding shops; garage and mechanical services; commercial chicken hatcheries; and pawnbrokers; the applicant has indicated that the pawn broker use would be limited to the pawning of secondhand jewelry only in conjunction with the existing jewelry store.

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CIRCULATION AND PARKING:

The subject property has ingress and egress points along SW 24 Street (Coral Way) and SW 87 Avenue.

ENVIRONMENTAL REVIEW: Not applicable.

OTHER: Not applicable.

RECOMMENDATION: Denial without prejudice.

CONDITIONS FOR APPROVAL: None.

ES:MW:NN:AN:EJ

A handwritten signature in black ink, appearing to read "Eric Silva", is written over a horizontal line. To the right of the signature, the letters "NDN" are handwritten vertically.

Eric Silva, AICP, Assistant Director
Development Services Division
Miami-Dade County
Department of Regulatory and Economic Resources

ZONING RECOMMENDATION ADDENDUM

Tadpole Investments, Inc.
Z10-016

COMPREHENSIVE DEVELOPMENT MASTER PLAN (CDMP) OBJECTIVES,

NEIGHBORHOOD SERVICES PROVIDER COMMENTS*	
Regulatory and Economic Resources (Environmental Division)	No objection
Public Works and Waste Management	No objection
Parks, Recreation and Open Spaces	No objection
Fire Rescue	No objection
Police	No comments
Schools	No objection

*Subject to conditions in their memorandum.

POLICIES AND INTERPRETATIVE TEXT

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